

REMARKS

The Office Action of February 3, 2009 has been received and considered. Claims 1-36 are pending in this application. Claims 1 and 21 have been amended.

Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

Section 102

Claims 1-3, 5, 6, 9-11, 13, 19-25, 28, 29, 31, and 33 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,088,832 to Newman ("Newman"). This rejection is respectfully traversed.

Newman fails to disclose or make obvious an article of swimwear with a swimsuit body having at least one aperture configured to encircle a portion of a swimmer's body when the swimsuit body is worn by a user; and a resilient seal having a first portion secured about the at least one aperture **on an exterior of the swimsuit body**, as required by independent claims 1 and 21.

Newman discloses swimwear with a suction cup sealing strip 30. Sealing strip 30 is secured to an **interior periphery** of openings 24, 25, 26 of the article of swimwear 20 (col. 2, lines, 31-32). The interior surface of suction cup sealing strip 30 is designed to be pressed into contact with the swimmer's flesh to prevent water, sand or waste products from passing through the openings (col. 2, lines 39-44). Consequently, one skilled in the art would have no motivation to modify Newman such that sealing strip 30 would be secured to an exterior of swimwear 20, since to do so would prevent the interior surface of sealing strip 30 from contacting the user's flesh and, therefore, defeat the purpose of sealing strip 30.

Accordingly, the rejection is improper and should be withdrawn.

Section 103

Claims 4, 7, 8, 12, 14-18, 26, 27, 30, 32, and 34-36 have been rejected under 35 U.S.C. § 103(a) over Newman. This rejection is respectfully traversed.

For the reasons discussed above, Newman fails to disclose or make obvious each and every limitation of independent claims 1 and 21, from which claims 4, 7, 8, 12, 14-18, 26, 27, 30, 32, and 34-36 depend. Accordingly, these claims are believed to be in form for allowance and the rejection should be withdrawn.

Conclusion

It is respectfully submitted that the pending claims are in form for allowance. Please apply any charges or credits to Deposit Account No. 19-0733.

Respectfully submitted,

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